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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,203	09/02/2003	Satoshi Kondo	2003_1259	1711

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EXAMINER

HUBER, PAUL W

ART UNIT PAPER NUMBER

2653

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/652,203	Applicant(s) KONDO ET AL.	
	Examiner Paul Huber	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 16-21 is/are rejected.
- 7) ☒ Claim(s) 1-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/413,326.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09022003</u> . | 6) <input type="checkbox"/> Other: ____ |

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The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claims 1-21 are objected to because at least claims 1, 8 and 16 each recite a decoder which "reads ... and encodes..." However, a decoder decodes, not encodes, reproduced data. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yonemitsu et al. (USP-6,061,404).

Yonemitsu et al. discloses a simultaneous recording and reproduction apparatus (see figures 3 & 4), comprising: an encoder 102 which encodes first input signals to provide a first data stream; a first buffer memory 103 which accumulates the first data stream encoded by the encoder 102; a data recorder 107 which records the first data stream read from the first buffer memory 103 to a recording medium 108; and a controller 110 which sets coding rate for the first signals in the encoder 102. The encoder 102 performs encoding at a variable bit rate and decreases the bit rate for encoding when it detects that the first buffer memory 103 is going to overflow as claimed. See col. 6, line 60, through col. 7, line 6, and abstract. Although Yonemitsu et al. does not specifically illustrate a data reproducing system for reproducing the first data stream, which has been recorded previously to the recording medium, the reference as a whole teaches that the apparatus further includes a data reproducer system which includes a "decoder buffer in [a] decoder portion". See col. 9, lines 35-39 and col. 10, lines 38-42, for example. Moreover, it is inherent in the apparatus of Yonemitsu et al. that the decoder buffer, in the decoder portion of the reproduction system of the apparatus, accumulates the reproduced data stream read from the recording medium 108 and that a decoder reads the signal from the decoder buffer and decodes it as reproduced data as claimed. It is

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further inherent that an overall system controller (not illustrated), which includes the rate controller 110, controls the data recorder and the data reproducer to perform recording and reproduction alternately in time as claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yonemitsu et al., as applied to claim 16 above, in further view of Official Notice.

Yonemitsu et al. discloses the invention as claimed, but fails to specifically teach that the apparatus further includes management data which is updated and recorded on the recording medium between recording and reproduction by the system controller. However, it is manifestly well known in the art that recording/reproducing systems of the type as claimed update and record management information, i.e., table of contents information and/or defect information, for the purpose of logging the start/end addresses of recorded programs and/or the addresses of known defects thereby enabling the apparatus to control recording/reproduction based upon such addresses, and Official Notice is hereby taken.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yonemitsu et al. such that the apparatus further includes management data which is updated and recorded on the recording medium between recording and reproduction by the system controller as claimed and as well known in the art. A practitioner in the art would have been motivated to do this for the purpose of logging the start/end

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addresses of recorded programs and/or the addresses of known defects thereby enabling the apparatus to control recording/reproduction based upon such addresses.

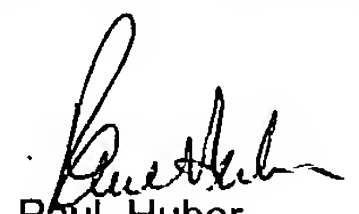
Relative to the doctrine of Official Notice, see In re Knapp-Monarch Co., 132 USPQ 6 (CCPA 1961).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Akagiri and Takahashi each disclose a encoder/decoder circuit in a recording/reproducing apparatus.

Claims 1-15 would be allowable if rewritten or amended to overcome the objection as set forth in this Office action.

The following is an examiner's statement of reasons for allowance: the prior art of record considered as a whole fails to teach or suggest a simultaneous recording and reproduction apparatus comprising: an encoder which encodes first input signals to provide a first data stream; a first buffer memory which accumulates the first data stream encoded by the encoder; a data recorder which records the first data stream read from the first buffer memory to a recording medium; a data reproducer which reproduces the first data stream, which has been recorded previously to the recording medium, as a second data stream; a second buffer memory which accumulates the second data stream read from the data reproducer; a decoder which reads the second data stream from the second buffer memory and decodes it as second signals; and a system controller which sets coding rate for the first signals in the encoder; wherein the system controller controls the data recorder and the data reproducer to perform recording and reproduction alternatively in time, and **wherein when simultaneous recording and reproduction mode is set wherein recording of the first signals and reproduction of the second signals are performed at the same time, the system controller either: sets the coding rate of the encoder to a value smaller than that in normal recording mode wherein only the first signals are recorded, or sets the coding rate of the encoder so that a sum of recording rate and reproduction rate in a predetermined period is smaller than a predetermined bit rate.** (bold language emphasized).

Any inquiry concerning this communication should be directed to Paul Huber at telephone number 703-308-1549.


Paul Huber
Primary Examiner
Art Unit 2653

Pwh
July 16, 2004